

REMARKS

I. Status of Claims

Claims 1-79 were filed with the application, and claims 67-79 have been canceled. Claims 9, 10, 24, 28-32 and 57-66 were withdrawn pursuant to a restriction requirement. Claims 1-8, 11-23, 25-27 and 33-56 are allowed. The examiner now requests that withdrawn claims 9, 10, 24, 28-32 and 57-66 be canceled.

II. Traversal of Request to Cancel Withdrawn Subject Matter

In the restriction requirement mailed on July 14, 2004, the examiner identified two groups of claims – Group I being directed at treating cancer (claims 1-66), and Group II directed at treating graft versus host disease (claims 57-79). Claims 57-66, drawn to methods of inducing apoptosis in a lymphoid cell were common to both groups.

In light of applicants election of Group I, applicants were also asked to elect a species of cancer cell from claim 8, a solid tumor (if appropriate) from claim 10, and a chemotherapeutic agent from claims 21-24. Applicants provided appropriate elections (leukemia cells, AML leukemia cells and the retinoid LD1069) and claims 9, 10, 24, 28-32 and 57-66 were withdrawn.

Claim 1 is a linking claim that links all of Group I – at least claims 1-56. As such, applicants are entitled to a search, once the elected claims have been found allowable (as now), of the entire scope of the subject matter of Group I. MPEP §809 states as follows:

809 Claims Linking Distinct Inventions

Where, upon examination of an application containing claims to distinct inventions, linking claims are found, restriction can nevertheless be required

... The linking claims must be examined with the invention elected, and should any linking claim be allowed, the restriction requirement must be withdrawn. Any claim(s)

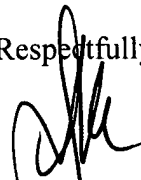
directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability. Where such withdrawn claims have been canceled by applicant pursuant to the restriction requirement, upon the allowance of the linking claim(s), the examiner must notify applicant that any canceled, nonelected claim(s) which depends from or includes all the limitations of the allowable linking claim may be reinstated by submitting the claim(s) in an amendment. Upon entry of the amendment, the amended claim(s) will be fully examined for patentability.

(Emphasis added). Thus, the examiner must examine the linking claim (or other species therein) as the MPEP requires rejoinder in this situation.

III. Conclusion

In light of the foregoing, applicants respectfully submit that the withdrawn claims are now eligible for examination and need not be canceled. The examiner is invited to contact the undersigned attorney at (512) 536-3184 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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